

REMARKS:

Claims 97-125 are in the application and presented for consideration.

Applicants and the undersigned thank the Examiner for his time and consideration during the telephone interview of August 5, 2003. No agreement was reached but the undersigned expressed his intentions of submitting the claims now presented and presented some of his arguments distinguishing the new main claim over the prior art.

Although the distinctions between the claimed invention and the prior art may seem simple, the Examiner is respectfully requested to carefully consider the following remarks. The apparent simplicity of the invention may make it more difficult to decide the question of obviousness without hindsight gleaned by having read the present specification. Having recognized this, the Federal Circuit's predecessor, the C.C.P.A. had held that "Simplicity and hindsight are not proper criteria for resolving the issue of obviousness." *In re Horn et al.*, 203 U.S.P.Q. 969,971 (C.C.P.A. 1979). Also see *In re Meng and Driessen*, 181 U.S.P.Q. 94, 97 (C.C.P.A. 1974) there the court said "Simplicity, in particular in an old and crowded art, may argue for rather than against patentability."

Turning now to the Office Action, non-elected claims 69-93 have been cancelled subject to Applicants right to file a divisional application thereon. The remaining claims have been replaced with a new set of claims corresponding to the election but in better form and written to better distinguish the invention over the prior art.

Although former claim 96 was objected to for a spelling error, in fact "epitactic" and not "epitaxial" was intended. See the specification at page 13, line 22 and page 29, line 8. The term "epitactic" means a layer on a single thin crystal. See, for example, the link http://www.elmi.uni-bonn.de/en/forschung_e_duenne_filme.html for evidence of the meaning of this term to those skilled in the art. The claims currently presented do not claim

this feature, however.

To address the Examiner's rejections under 35 U.S.C. 112, second paragraph, the new claims have been drafted to conform to U.S. patent practice and are believed to be in proper form.

The Examiner has rejected former claim 50 as been obvious under 35 U.S.C. 103 from a combination of U.S. Patent 6,013,134 to Chu et al. (Chu'134) in view of U.S. Patent 5,858,102 to Tsai (Tsai'102).

New claim 97, the only independent claim presented, includes subject matter from former claims 49 and 50 and, for the reason set forth in the following, is believed to define a patentably distinct invention over any obvious combination of Chu'134 and Tsai'102. The remaining claims which all depend either directly or indirectly from claim 97, further distinguish the invention from the prior art and are like-wise believed to be allowable.

Chu'134 teaches batch processing disk-shaped structural members in UHV (ultrahigh vacuum) conditions. According to column 3, line 64 and following in Chu'134, it seems at least most probable that from the UHV transfer system 16 the boats and therefore batches 18 of wafers 20 are moved in vacuum into the respective systems 12 and 14. System 12 is therefore believed to suggest an UVH-CVD system.

Nevertheless, Chu'134 clearly teaches that all the disk-shaped members are in vertical orientation.

Tsai'102 discloses CVD treatment of batches of disk-shaped members, and the Examiner correctly mentions that CVD treatment is performed upon a batch of horizontally disposed disk-shaped members that are rotated by means of a planetary susceptor.

Tsai'102, however, does not teach or suggest performing CVD under UHV cleanness conditions, because then it would be very difficult, if not impossible, to realize

planetary susceptor rotation within the treatment reactor due to very high demands on cleanness for UHV conditions, and to the problem of friction whenever moving parts are provided in the reaction area.

Tsai'102, therefore, would not teach and not obviate to the skilled artisan to apply the planetary rotated horizontal batch arrangement for a UHV processing as taught by Chu'134.

Other reasons why it would not be obvious to replace the vertically oriented batch of members in the Chu'134 UHV process, with a horizontally oriented batch of members as known from Tsai'102, include the following:

With respect to handling, especially before and/or after processing, the vertical orientation of the members in the batches of Chu'134 are most disadvantageous, considering the fact that the members, e.g. wafers to be treated, become larger and larger and are quite thin. Vertical batch orientation leads to severe problems with respect to properly spacing the neighboring members, which tend, due to their small thickness, to bend. In the horizontal position it is much easier to deposit large and thin members on respective sustaining members and to maintain a proper, unbent shape for the members. This is true during CVD processing, but is especially true when the respective batch is accelerated and moved upstream or downstream of the CVD treatment location.

Horizontal batch member handling has considerable advantages over vertical orientation batch handling but the skill artisan reading Tsai'102 is taught that a batch of horizontal members should be on a rotatable susceptor which should not be used in an UHV process thus rendering the combination of new claim 97, unobvious.

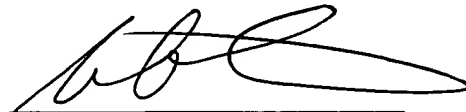
As taught by Chu'134, UHV-CVD processing requiring high demands with respect to cleanness, must maintain vertical orientation of the members so as to reduce, as was

believed the problem of the members' surfaces, becoming contaminated, e.g. by gravity-propelled dust.

Therefore, in the addressed art it was clearly not evident to switch from the orientation as taught by Chu'134, to horizontal orientation as known from Tsai'102, for non-UHV-CVD appliances, where the demands with respect to cleanness are much lower.

Accordingly the claims and application are believed to be in condition for allowance and favorable action is respectfully requested.

Respectfully submitted,



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